

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 7 DECEMBER 2016
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY, 7 DECEMBER 2016 AT 0930 HOURS, IN COMMITTEE ROOM 1, COUNCIL HOUSE, BIRMINGHAM

PRESENT: - Councillor Alex Buchanan in the Chair;

Councillors Neil Eustace and Mike Leddy.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai (accompanied by an observer) – Legal Services
Paul Holden – Committee Services

NOTICE OF RECORDING

1/071216 The meeting was advised that members of the press/public may record and take photographs except where there were confidential or exempt items.

MINUTES

The Minutes of the meeting held on 9 November were included with the agenda papers and the Minutes from 4 November 2016 circulated to Members at the meeting.

2/071216 **RESOLVED**

That the Minutes of the meetings held on 4 and 9 November 2016 be confirmed and signed.

GAMBLING ACT 2005 VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT – BOTTLE OF SACK, BIRMINGHAM ROAD, SUTTON COLDFIELD, B72 1DD

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The Applicant

Colin Lovell – Area Manager

The Chairman introduced the Members and officers present and explained the hearing procedure.

David Kennedy, Licensing Section, outlined the main points of the report.

The applicant advised the Sub-Committee that the proposal was to replace an old entertainment quiz with prizes machine with a Category C Gaming Machine at the location opposite the bar shown (by a question mark) on the ground floor plan of the premises, included with the application form (Appendix 1).

In response to questions from Members of the Sub-Committee, the following were amongst points made by the applicant:-

1. It was acknowledged that no first floor plan of the premises had been provided and explained that the fourth existing Category C Gaming Machine was located by the kitchen area on that floor where there was a lot of staff activity. The Gaming Machines in the premises were also covered by CCTV.
2. Members were advised that there were general information notices for people who needed help overcoming gambling addiction and leaflets available that were issued by the suppliers of the Gaming Machines. Staff also watched to see if anyone appeared to be addicted to gambling, although no instances had been observed.
3. Another Gaming Machine had been applied for because they were a good source of income.
4. He indicated that in addition to protecting children he viewed other vulnerable persons as being those who relied on and were addicted to gambling.
5. The Sub-Committee was informed by the applicant that no specific Refusals Log was kept to record any problem use of the Gaming Machines.
6. Managers and Team Leaders walked around the premises and would notice if an individual was addicted to gambling and moving from one Gaming Machine to another. It was reiterated that the Gaming Machine on the first floor was by the kitchen area.
7. Further to a query regarding what he considered would be too many Gaming Machines the applicant commented that 5 was the maximum that he had seen in similar premises.
8. Members were advised that each Gaming Machine made about £100 a week.

In summing-up, the applicant also added that income from the entertainment machine had fallen because people now used their smartphones.

At 1021 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

All parties were recalled to the meeting at 1042 hours and the decision of the Sub-Committee was announced.

3/071216

RESOLVED:-

That the application by JD Wetherspoon Plc, for the variation of a Licensed Premises Gaming Machine Permit in respect of Bottle of Sack, Birmingham Road, Sutton Coldfield, B72 1DD be refused.

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act, particularly protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns regarding the impact of the proposed operation, and in particular the management of the machines.

The Sub-Committee carefully considered the application, including policies and procedures, put forward by the applicant, and also considered the likely impact of the application. However the Sub-Committee was not persuaded that the applicant or proposed operation of the premises were capable of promoting the Licensing Objective of protecting vulnerable people from harm or exploitation. The proposed removal of an entertainment game, to replace it with a gambling game, would be likely to attract vulnerable people. The Members noticed that a cluster of machines were sited together, and although the applicant stated that staff monitor the use of the machines, which are also covered by CCTV, the Members were not convinced that suitable arrangements were in place. They noted in particular that there is no Refusals Log to record problem use of the machines.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the three licensing objectives were adequately promoted and that therefore the Licensed Premises Gaming Machine Permit could be granted; however Members considered that in general the application as it stood was not satisfactory given the management arrangements regarding the machines.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, the Report of the City Council's Licensing Enforcement Team, and the

submissions made at the hearing by the applicant.

All parties are reminded that under the provisions contained within Schedule 13 to the Gambling Act 2005, the applicant has the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

GAMBLING ACT 2005 VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT – HORNET, 991 ALUM ROCK ROAD, WASHWOOD HEATH, B8 2LZ

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 2)

The Applicant

Annmarie Gee – Designated Premises Supervisor

The Chairman introduced the Members and officers present and explained the hearing procedure.

David Kennedy, Licensing Section, outlined the main points of the report and also highlighted that the fourth paragraph on the second page was inaccurate as the current Gaming Machine Permit allowed 5 Category C Gaming Machines.

The applicant informed the Members that the premises were small and that the application had been made as a business case. It was pointed out that the proposed sixth Gaming Machine would be visible from the bar. Furthermore, no problems had arisen in respect of the existing Gaming Machines during the 18 months she'd been the licensee of the premises.

In response to questions from Members of the Sub-Committee, the following were amongst comments made by the applicant:-

1. Members were advised that the existing 5 Gaming Machines made from about £2,500 - £3,000 per week.
2. The applicant informed the Sub-Committee that she regarded vulnerable people as being children and young people under 18 years of age and people with drink problems.
3. Clients of the public house did not have to queue in order to be able to use one of the existing Gaming Machines.

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4. The Gaming Machines were popular and a sixth Gaming Machine had been applied for to see if income from them could be increased.
5. It was highlighted by the Chair that it was not only children and young people who were vulnerable to gambling and that during consideration of the previous case the applicant had commented that 5 Gaming Machines was the maximum he'd seen in similar premises. In response to a question, the applicant informed Members that the proposed sixth Gaming Machine would be of the same type as the existing Machines.
6. The applicant gave an indication of the size of the Hornet's weekly turnover and how much was paid to the centre after expenses each month.

The applicant chose not to make a closing submission.

At 1115 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

All parties were recalled to the meeting at 1140 hours and the decision of the Sub-Committee was announced.

4/071216

RESOLVED:-

That the application by JD Wetherspoon Plc, for the variation of a Licensed Premises Gaming Machine Permit in respect of Hornet, 991 Alum Rock Road, Washwood Heath, Birmingham, B8 2LZ be refused.

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act, particularly protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns regarding the impact of the proposed operation, and in particular in terms of the lack of protection for vulnerable people.

The Sub-Committee carefully considered the application, including policies and procedures, put forward by the applicant, and also considered the likely impact of the application. However the Sub-Committee was not persuaded that the applicant, or proposed operation of the premises, were capable of promoting the Licensing Objective of protecting vulnerable people from harm or exploitation. The Licensee of the premises stated to the Sub-Committee that in her opinion 'vulnerable people' meant those under 18, or those under the influence of alcohol – without any mention of people with gambling problems/ addiction. The Members considered that if the Licensee had not understood the meaning of 'vulnerable people' in terms of the Act, she would be unable to advise or train staff.

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She told the Members that it was a small premises and that the application was made as a business case. On hearing details of the income generated by the machines, Members considered that the revenue from machines was not ancillary to the business, but a primary source of income. The Members were not convinced that suitable arrangements were in place to ensure the Licensing Objectives could be promoted with a large number of machines in small premises.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the three licensing objectives were adequately promoted and that therefore the Licensed Premises Gaming Machine Permit could be granted; however Members considered that in general the application as it stood was not satisfactory given the Licensee's comments regarding 'vulnerable people'.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, the email dated 14th October 2016 from the City Council's Licensing Enforcement Team, and the submissions made at the hearing by the applicant.

All parties are reminded that under the provisions contained within Schedule 13 to the Gambling Act 2005, the applicant has the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The meeting ended at 1145 hours.

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CHAIRMAN